

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: GLOBAL CROSSING LTD. AND FRONTIER CORPORATION	DOCKET NO. SPU-99-16
--	----------------------

ORDER GRANTING MOTION TO DISMISS

(Issued June 25, 1999)

On May 7, 1999, Global Crossing Ltd. (Global Crossing) and Frontier Corporation (Frontier) (collectively, Applicants) filed a "Proposal For Reorganization" pursuant to IOWA CODE § 476.77 (1999) (the Application). The Applicants request Board approval to transfer control of Frontier's Iowa operating subsidiaries to Global Crossing pursuant to the Applicants' March 16, 1999, "Agreement and Plan of Merger."

On May 18, 1999, the Applicants filed a letter informing the Board of Global Crossing's announcement of a separate agreement to merge with U S WEST, Inc. (U S West). The Applicants state the new proposed merger will have no material impact on the matters set forth in their Application in this docket. The Applicants urge the Board to continue to process the pending Application and permit the proposed transaction to proceed as planned.

On May 26, 1999, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a "Motion To Dismiss And To Reject Defective and Insufficient Filing" (the Motion to Dismiss). Consumer Advocate states that on

May 17, 1999, Global Crossing announced its intent to merge with U S WEST, Inc., the parent company of U S WEST Communications, Inc., which is the largest provider of local exchange services in Iowa. Consumer Advocate argues that many of the material allegations contained in the Applicants' Application, even if true when made, are substantially changed as a result of the announcement of the U S West merger, making the Application defective and insufficient. Consumer Advocate moves the Board for an order dismissing the Application.

Consumer Advocate points to several examples of allegations in the Application that appear to Consumer Advocate to be incorrect as a result of the Global Crossing-U S West merger announcement. For example, at pages 1 to 4 of the Application, the Applicants allege that "neither company currently competes in the market sectors served by the other" and that "neither is a likely entrant into the other's geographic markets." While subsidiaries of Frontier and Global Crossing do not compete in any market sectors, Frontier and U S West both provide local exchange telephone service in Iowa and are potential competitors, if they are not already competitors for new customers that might locate in either of their service territories.

Consumer Advocate also points to the Applicants' Exhibit B, purporting to show the effect of the proposed merger on the Frontier Iowa operating subsidiaries and their parent companies, and Exhibit C, purporting to describe the anticipated management team of the resulting merged entity. Consumer Advocate asserts these exhibits are no longer accurate descriptions of the anticipated final corporate

structure or the future management team, given the proposed merger with U S West.

Consumer Advocate points to other examples of allegations in the Application that may be affected by the announced merger with U S WEST, including the allegation that there will be no significant employee reductions or change in Frontier's technical, managerial, and operational personnel; the allegation that the accounting policies of Frontier will not be affected; and the allegation that Global Crossing has no existing or planned Iowa operations to integrate with Frontier's Iowa operations. Consumer Advocate concludes these are material changes to the underlying facts relevant to each of the factors the Board must consider when reviewing a proposed reorganization pursuant to IOWA CODE § 476.77 and IOWA ADMIN. CODE 199-32 (1999).

Finally, Consumer Advocate argues the Application is flawed, defective, and insufficient because Applicants offer two alternative proposals for reorganization, rather than one.

Consumer Advocate requests the Board dismiss and reject the Application for each of the reasons described above.

On June 8, 1999, the Applicants filed their "Joint Response To Motion To Dismiss and To Reject Defective And Insufficient Filing" (the Response). The Applicants argue that Consumer Advocate presents no valid reason for the Board to dismiss the pending Application, which concerns only the Global Crossing/Frontier reorganization. Consumer Advocate's issues relate to the

potential impact of a merger between Global Crossing and U S West, which is not currently before the Board. The Applicants argue the two transactions are separate events; they intend to close the Frontier/Global Crossing reorganization in the near future, while the U S West/Global Crossing merger is unlikely to close until substantially after the pending transaction. Thus, the Applicants argue, it is likely the merged Global Crossing/Frontier entity will exist on a stand-alone basis as the regulated entity "for a considerable period of time." As to that stand-alone entity, "the statements contained in the Application remain true today and have not been altered by the announcement of the subsequent and independent Global Crossing/U S West merger." The Applicants argue that reviewing the two transactions separately is consistent with past Board practice, citing the Board's separate consideration of the merger between Bell Atlantic Corporation and GTE Corporation and the proposed GTE exchange sale.

Finally, the Applicants disagree with Consumer Advocate's contention that the Application should be dismissed because it proposes two alternative transaction forms. Applicants indicate they have decided to complete the proposed transaction through the primary structure, rather than the alternative structure, making the issue moot.

The Board will grant Consumer Advocate's motion to dismiss. The announcement of the proposed merger between Global Crossing and U S West is an event that the Board cannot ignore in its consideration of this Application. The proposed transaction with U S West, if approved and completed, is likely to have a

significant impact on Frontier's operations in the state of Iowa. The Applicants effectively argue the Board should turn a blind eye to the future merger and its likely impacts and consider this proposal in a vacuum. The Board rejects that argument. The Board is not required to, and cannot, ignore the real world when considering the public interest. The pending Application must be dismissed because it utterly and completely fails to address a known, material factor that the Board must consider in its review of the proposed reorganization.

The Board is not persuaded that its past orders with respect to GTE set any relevant precedent for these proceedings. The GTE cases involved a corporate reorganization and the sale of certain exchanges. While both transactions qualify as "reorganizations" as defined in IOWA CODE § 476.76, they are not such similar transactions that they are likely to involve the same issues and concerns. The Frontier/Global Crossing and U S West/Global Crossing mergers, in contrast, are both in the nature of corporate reorganizations and appear likely to raise similar and interrelated issues that make coordinated consideration appropriate.

The question that remains is how this matter should proceed when re-filed. The Board understands that the Frontier/Global Crossing reorganization and the Global Crossing/U S West merger are separate transactions, and the Board will not require that they be presented to the Board simultaneously. Thus, the Applicants have the option of re-filing their proposal for this reorganization as a stand-alone application, albeit modified to include a consideration of the likely impacts of the subsequent merger (which can then be the subject of a subsequent application).

However, the Board notes there may be certain advantages to considering both reorganization proposals in a single docket (or a consolidated docket including both proposals). For instance, in a single or consolidated docket, there would only be one hearing, rather than two, conserving the resources of the Applicants, U S West, Consumer Advocate, and the Board. The Board would be able to consider the information relevant to both transactions in a single proceeding, avoiding duplication of effort. Full information would be available from all of the entities involved in the two mergers, as parties to the single or consolidated docket. If Frontier and Global Crossing decide to file a separate application, U S West may not be a party to the proceeding, which may have a detrimental effect on the availability of relevant information from U S West. Finally, if the two proposals are considered separately and at different times, there is a distinct possibility that issues may arise during the second proceeding that could better have been addressed in the first proceeding, possibly forcing the Board to take remedial measures that would have been more readily addressed in the initial docket.

In summary, it appears there are good reasons to believe these two transactions are best considered together. Still, it appears the Applicants may continue in their belief that these are separate transactions that should not be considered together, and the Board will permit the Applicants to file separate applications so long as each application is complete and addresses all of the relevant facts and so long as the Board's (and Consumer Advocate's) access to relevant information is not impeded by separation of the filings.

PAGE 7

IT IS THEREFORE ORDERED:

1. The "Motion To Dismiss And To Reject Defective And Insufficient Filing" filed by the Consumer Advocate Division of the Department of Justice on May 26, 1999, is granted.

2. The "Proposal For Reorganization" filed on May 7, 1999, by Global Crossing Ltd. and Frontier Communications Inc. is, pursuant to IOWA CODE § 476.77(1), disapproved without prejudice to re-filing as described above.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 25th day of June, 1999.